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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

MICHAEL ERWINE,  
Plaintiff,

v.

UNITED STATES OF AMERICA, et al.,  
Defendants.

Case No.: 3:24-cv-00045-MMD-CSD

**STIPULATED DISCOVERY PLAN AND  
SCHEDULING ORDER**

**SPECIAL SCHEDULING REVIEW  
REQUESTED**

Pursuant to the requirements of Fed. R. Civ. P. 26(f) and LR 26-1, the Plaintiff and Defendants hereby submit the following Stipulated Discovery Plan and Scheduling Order in the above-captioned matter.

A. Information Requested by Fed. R. Civ. P. 26(f):

1. Counsel for the parties conducted a meeting pursuant to Federal Rule of Civil Procedure 26 and Local Rule 26-1 on Tuesday, August 6, 2024. Pursuant to an agreement between the parties, the parties will serve initial disclosures in accordance with Federal Rule of Civil Procedure 26(a) on or before Tuesday, August 20, 2024.

1           2.       Discovery may be conducted on all discoverable matters relevant to issues  
2 raised by the First Amended Complaint, ECF No. 59 (as modified by the Court's Order,  
3 ECF No. 89), Answers, and any subsequent pleadings, consistent with the Federal Rules  
4 of Civil Procedure and the Local Rules of this District.

5  
6           3.       No changes or limitations, other than those set forth below, set by either the  
7 Federal Rules of Civil Procedure or Local Rules for the District of Nevada are requested  
8 at this time.

9           An extended period of time for the completion of discovery is necessary in this  
10 case. In addition to the fact that this lawsuit includes wrongful termination claims against  
11 two different employers for whom Erwine worked between December of 2015, and March  
12 of 2022, the Defendants will be required to seek documents from, and take depositions of,  
13 numerous representatives of the law enforcement agencies by whom Erwine claims to  
14 have been rejected because of actions of the Defendants. Numerous such law  
15 enforcement agencies are located out of state (Dallas, Texas, Greenville, South Carolina,  
16 Denver, Colorado, San Francisco, California, Nashville, Tennessee, New Orleans,  
17 Louisiana and others). Churchill County and Trotter anticipate, based upon discovery  
18 conducted in the prior lawsuit filed by Erwine against the County and Trotter (Case No.  
19 3:18-cv-00461), that obtaining documents and information from the law enforcement  
20 agencies identified in Plaintiff's First Amended Complaint will require court intervention  
21 due to the confidential nature with which law enforcement officers treat applications and  
22 background checks on applicants for employment.

23  
24  
25           Churchill County and Ben Trotter seek leave to conduct depositions in excess of  
26 the ten-deposition limit set forth in FRCP 30. This lawsuit arises out of Plaintiff's  
27 allegations that he was prevented from obtaining employment as a law enforcement  
28

1 officer with more than 16 law enforcement agencies, numerous of which are located out  
2 of state, as a result, in part, of information contained in the "Trotter Memorandum" more  
3 fully described in Plaintiff's First Amended Complaint. In addition to taking the deposition  
4 of Erwine, as well as the deposition of Sarah Tracy (witness identified in Paragraph 245 of  
5 Plaintiff's First Amended Complaint), Churchill County and Ben Trotter must subpoena  
6 records and take the depositions of the person most knowledgeable regarding Erwine's  
7 rejection from employment from each of the agencies identified in the First Amended  
8 Complaint.  
9

10 B. Information Requested by LR 26-1:

11 1. Discovery Cut-Off Date:

12 The parties request three hundred (300) days from August 6, 2024, which is the  
13 date of the early case conference.  
14

15 All discovery must be completed no later than Monday, June 2, 2025. When  
16 producing documents responsive to a discovery request, the documents shall be  
17 numbered and the responsive documents shall be specifically referred to by bates-  
18 number in the response.  
19

20 The parties anticipate that their initial, supplemental, and responsive production of  
21 materials will be in .pdf and/or paper formats. Such production may be served by  
22 electronic means. The parties understand that the United States' productions of electronic  
23 files including .pdfs must typically be made via encrypted means, e.g., an encrypted disc,  
24 with password provided separately, or use of the United States' cloud-based file  
25 exchange portal, "USAfx." Should any technical difficulties arise with these encrypted  
26 means, counsel will make good faith efforts to meet, confer, and resolve the difficulties.  
27  
28

1 The claims against the United States, arising under the Federal Tort Claims Act,  
2 are subject to a bench trial, so there is no issue about the viewing of electronic evidence  
3 during jury deliberations. Counsel will further discuss and address the presentation of  
4 electronic exhibits at trial in connection with the joint pretrial order, pretrial conference,  
5 and/or calendar call, as applicable and appropriate.  
6

7 2. Amending the Pleadings and Adding Parties:

8 The date for filing motions to amend the pleadings or to add parties shall not  
9 be later than ninety (90) days after the Rule 26(f) conference and, therefore, not later than  
10 November 4, 2024 . Any party causing additional parties to be joined or brought to this  
11 action shall contemporaneously therewith cause a copy of this Order to be served upon  
12 the new party or parties.  
13

14 3. Fed. R. Civ. P. 26(a)(2) Disclosures (Experts):

15 The last day for disclosures required by Fed. R. Civ. P. 26(a)(2) concerning  
16 experts shall be Thursday, April 3, 2025. The last day for disclosures regarding rebuttal  
17 experts shall be Friday, May 5, 2025.  
18

19 4. Dispositive Motions:

20 The parties shall file dispositive motions not more than thirty (30) days after  
21 the discovery cut-off date and, therefore, not later than Wednesday, July 2, 2025.  
22

23 5. Pretrial Order:

24 If no dispositive motions are filed, and unless otherwise ordered by this  
25 Court, the Joint Pretrial Order shall be filed not more than thirty (30) days after the date  
26 set for filing dispositive motions and, therefore, not later than Wednesday, August 1,  
27 2025. In the event dispositive motions are filed, the last day to file the Joint Pretrial Order  
28 shall be suspended until thirty (30) days after the ruling on the dispositive motions.

1 D. Certifications

2 1. By signing below, the parties make the following certifications:

3 The parties have met and conferred about the possibility of using alternative  
4 dispute-resolution processes including mediation, arbitration, and if applicable, early  
5 neutral evaluation.  
6

7 The parties have considered consent to trial by a magistrate judge under 28 U.S.C.  
8 § 636(c) and Fed. R. Civ. P. 73.

9 Plaintiff requests that this matter be assigned to Early Neutral Evaluation program  
10 under LR 16-6(a) and believes this is required under LR 16-6(a) as Plaintiff's First  
11 Amended Complaint alleges a racial discrimination claim.  
12

13 Churchill County and Ben Trotter are opposed to assignment of this Case to the  
14 Early Neutral Evaluation Program. Churchill County and Ben Trotter participated in an  
15 Early Neutral Evaluation (followed by private mediation and court supervised settlement  
16 conferences) in Case No. 3:18-cv-00461-RCJ-WGC on February 4, 2019, on the same  
17 claims brought against them as are set forth in Plaintiff's First Amended Complaint.  
18 Under these circumstances, Churchill County and Trotter believe assignment of this case  
19 to the ENE program is unwarranted. In addition, Churchill County and Ben Trotter submit  
20 that LR II 16-6(a) does not apply to the claims brought against them in this case.  
21

22 The United States respectfully submits that the Court's Early Neutral Evaluation  
23 program is not applicable to Plaintiff's tort claims against the United States. Additionally,  
24 with the history and pending motions to dismiss, the United States is not confident that an  
25 ENE (a pre-discovery, settlement conference) would be a productive use of the parties  
26 and the Court's time and resources.  
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1  
2 DATED: August 14, 2024

3 BY: /s/ Melanie Bernstein Chapman

4 Paul A. Cardinale  
5 Nevada State Bar Number 8394  
6 Melanie Bernstein Chapman  
7 Nevada State Bar Number 6223  
8 CARDINALE FAYARD, APLC  
9  
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15

Dated: August 14, 2024

BY: /s/ Luke Busby

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10 DATED: August 14, 2024

11 BY: /s/ Patrick A. Rose

12 Patrick A Rose  
13 U.S. Attorney's Office  
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DATED: August 14, 2024

BY: /s/ Katherine Parks

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16 Dated: August 14, 2024

17 BY: /s/ Gene Burke

18 Gene Burke  
19 geneburke@msn.com  
20 *Pro Se*

21 IT IS SO ORDERED:

22 UNITED STATES MAGISTRATE JUDGE

23 DATED: \_\_\_\_\_  
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